

BEFORE THE INDUSTRIAL COMMISSION OF THE STATE OF IDAHO

WILLIAM R. DECHAND,

Claimant,

v.

SPECTRUM HR, LLC,

Employer,

and

LIBERTY MUTUAL INSURANCE
COMPANY,

Surety,

Defendants.

IC 2006-002882

**FINDINGS OF FACT,
CONCLUSION OF LAW,
AND RECOMMENDATION**

Filed: April 8, 2008

INTRODUCTION

Pursuant to Idaho Code § 72-506, the Idaho Industrial Commission assigned the above-entitled matter to Referee Rinda Just. By stipulation of the parties, the matter was submitted for decision without a hearing. Harold B. Smith of Coeur d'Alene represented Claimant. Monte Whittier of Boise represented Defendants. The parties stipulated to the admission of documentary and testimonial evidence. Both parties submitted post-hearing briefs. The matter came under advisement on January 7, 2008, and is now ready for decision.

ISSUE

By agreement of the parties, the sole issue to be decided is:

1. Whether the Idaho Industrial Commission has jurisdiction over this matter pursuant to Idaho Code § 72-221, or whether jurisdiction properly resides in Montana or Iowa.

RECOMMENDATION - 1

All other issues are reserved pending the outcome of the jurisdictional question.

In his opening brief, Claimant addressed a number of other issues, including medical care, permanent total disability under the odd-lot doctrine, apportionment under Idaho Code § 72-406, and entitlement to retraining. These issues are not before the Commission; therefore, pages four through ten of Claimant's opening brief are hereby stricken.

CONTENTIONS OF THE PARTIES

Claimant contends that he is entitled to a finding that his workers' compensation claim is justiciable in Idaho.

Defendants assert that Claimant has failed to meet the requirements of any statute that would confer jurisdiction upon the Idaho Industrial Commission to adjudicate his workers' compensation claim.

EVIDENCE CONSIDERED

The record in this matter consists of the following stipulated exhibits:

1. Notice of injury dated January 6, 2003;
2. Service Agreement between Spectrum HR and Davis Trade Street Enterprises/Davis Transport;
3. Miscellaneous payroll documents;
4. Claimant's answers to interrogatories.

Additional exhibits A and C, attached to Claimant's brief, were not a part of the stipulation between the parties; they are stricken from the record, and were not considered in this Recommendation.

After having considered the stipulated exhibits and the briefs of the parties, the Referee submits the following findings of fact and conclusion of law for review by the Commission.

RECOMMENDATION - 2

FINDINGS OF FACT

1. At all times material to this decision, Claimant was a resident of Idaho.
2. Claimant was a truck driver. He drove for a trucking operation variously known as Davis Trade Street Enterprises and Davis Transport (hereinafter jointly referred to as “Davis”) based in Missoula, Montana. Claimant first worked for Davis as an owner/operator for three years, beginning in 1977. He returned to Davis in 1986 as an employee/driver.
3. Claimant drove for Davis for seventeen years. During some of the time that he drove for Davis, he was deemed an employee of an employment agency that handled the employment records and human resource functions for Davis. At the time of his injury, Claimant was driving for Davis as an employee of Defendant Employer, Spectrum HR, LLC, one such employment agency.
4. Employer was incorporated in Troy, Michigan, with a principal place of business in Eldridge, Iowa. Employer has never maintained an office or place of business in Idaho.
5. Davis’ principal place of business is Missoula, Montana, with terminal dispatch offices in Ontario, California, Eldridge, Iowa, and Granite City, Illinois. Davis has never maintained an office or place of business in Idaho.
6. Neither Davis nor Employer came to Idaho to hire Claimant. Claimant contacted Davis in Missoula and obtained employment. All work assigned to Claimant was dispatched out of Missoula.
7. Claimant sustained a back injury while strapping down a load in Superior, Montana, on January 6, 2003.
8. Employer filed a first report of injury on January 17, 2003. A workers’ compensation claim was filed in Iowa, and the claim was accepted by Surety, and medical

RECOMMENDATION - 3

benefits, including a surgery in Coeur d'Alene in March 2003, were paid.

9. Claimant filed the instant Complaint on March 13, 2006, seeking total permanent disability.

DISCUSSION AND FURTHER FINDINGS

10. It is a fundamental tenet of Idaho workers' compensation law that the statutes are to be "liberally construed in favor of the claimant in order to effect the object of the law and to promote justice." *Haldiman v. American Fine Foods*, 117 Idaho 955, 793 P.2d 187 (1990). "The humane purposes that this law seeks to serve leave no room for a narrow technical construction." *Id.* To that end, the statutes anticipate that there may be circumstances when it is appropriate for Idaho to take jurisdiction over a workers' compensation claim even when some fundamental element of the claim has no relationship to the state.

11. Idaho Code § 72-221 establishes a presumption that Idaho will have exclusive jurisdiction for workers' compensation claims where the contract of employment was made in Idaho but the injury occurred outside of the state.

12. Idaho Code § 72-217 further delineates the conditions under which an injury that occurs outside of Idaho is compensable under Idaho law. A Claimant must meet one of the following four conditions for Idaho jurisdiction over an extraterritorial injury:

- The claimant's employment is principally localized in the state; or
- The claimant is working under a contract of hire made in Idaho for work not localized in any state; or
- The claimant is working under a contract of hire made in Idaho for work principally localized in another state where the employer is not subject to workers' compensation law; or

- The claimant is working under a contract of hire made in Idaho for work outside the United States and Canada.

13. Idaho Code § 72-220 further defines how the principal location of work is determined. In order to be “principally located” in this or another state, the employer must have a place of business in this or another state where the employee regularly works; or the employee must be domiciled or spend a substantial part of his working time in this or such other state; or an employee who travels regularly in Idaho and one or more other states can enter into an agreement with his employer providing that his employment is principally localized in this or such other state.

14. While the workers’ compensation statutes are to be liberally construed, the benefit of liberal construction does not apply to the findings of fact. *Aldrich v. Lamb-Weston, Inc.*, 122 Idaho 361, 834 P.2d 878 (1992). There is no evidence in any of the stipulated exhibits to establish any one of the four conditions set out in Idaho Code §72-217. No evidence suggests that Claimant’s work was localized in Idaho, as defined by Idaho Code § 72-220, and since the contract of employment was not entered into in Idaho, none of the other three conditions can be met.

15. Claimant has cited no legal authority in support of his contention that Idaho has jurisdiction of his industrial injury claim. The only case cited by Claimant, *Kirkpatrick v. Transtector Systems*, 114 Idaho 559, 759 P.2d 65 (1988), is inapposite on the facts of this case. In *Kirkpatrick*, the employer was *based* in Idaho, and the employee’s employment was *principally localized* in Idaho, though he was working in Ohio at the time of the injury. Either of those facts supported the Court’s decision that Kirkpatrick’s claim was properly brought in Idaho. No such facts are present in the instant case.

CONCLUSION OF LAW

1. Claimant has failed to establish any legal grounds upon which Idaho can properly exercise jurisdiction over his workers' compensation claim.

RECOMMENDATION

Based upon the foregoing Findings of Fact, Conclusion of Law, and Recommendation, the Referee recommends that the Commission adopt such findings and conclusion as its own and issue an appropriate final order.

DATED this 3 day of April, 2008.

INDUSTRIAL COMMISSION

/s/_____
Rinda Just, Referee

ATTEST:

/s/_____
Assistant Commission Secretary

BEFORE THE INDUSTRIAL COMMISSION OF THE STATE OF IDAHO

WILLIAM R. DECHAND,)	
)	
Claimant,)	
)	
v.)	IC 2006-002882
)	
SPECTRUM HR, LLC,)	
)	
Employer,)	ORDER
)	
and)	Filed: April 8, 2008
)	
LIBERTY MUTUAL INSURANCE)	
COMPANY,)	
)	
Surety,)	
Defendants.)	
_____)	

Pursuant to Idaho Code § 72-717, Referee Rinda Just submitted the record in the above-entitled matter, together with her proposed findings of fact and conclusion of law, to the members of the Idaho Industrial Commission for their review. Each of the undersigned Commissioners has reviewed the record and the recommendation of the Referee. The Commission concurs with this recommendation. Therefore, the Commission approves, confirms, and adopts the Referee's proposed findings of fact and conclusion of law as its own.

Based upon the foregoing reasons, IT IS HEREBY ORDERED that:

1. Claimant has failed to establish any legal grounds upon which Idaho can properly exercise jurisdiction over his workers' compensation claim.
2. Pursuant to Idaho Code § 72-718, this decision is final and conclusive as to all

matters adjudicated.

DATED this 8 day of April, 2008.

INDUSTRIAL COMMISSION

James F. Kile, Chairman

/s/_____
R.D. Maynard, Commissioner

/s/_____
Thomas E. Limbaugh, Commissioner

ATTEST:

/s/_____
Assistant Commission Secretary

CERTIFICATE OF SERVICE

I hereby certify that on the 8 day of April, 2008 a true and correct copy of the foregoing **Findings, Conclusion, Recommendation and Order** were served by regular United States Mail upon each of the following persons:

HAROLD SMITH
PO BOX 2083
COEUR DALENE ID 83816-2083

MONTE WHITTIER
PO BOX 6358
BOISE ID 83707-6358

djb

/s/_____